

ENTERED

December 06, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

FRED HOFFMAN, III,

Plaintiff,

VS.

EVELYN CASTRO, *et al*,

Defendants.

§
§
§
§
§
§
§
§

CIVIL NO. 2:18-CV-328

ORDER

The Court is in receipt of Defendant Evelyn Castro's ("Castro") Motion to Dismiss, Dkt. No. 112; Castro's Supplemental Motion for Summary Judgment, Dkt. No. 116; Plaintiff Fred Hoffman, III's ("Hoffman") Response, Dkt. No. 124; Plaintiff's Motion to Reconsider Dismissal of the Director of the Texas Department of Criminal Justice ("TDCJ"), Dkt. No. 130; Plaintiff's Alternative Motion to Substitute Parties, Dkt. No. 130; Plaintiff's Motion to Permit Discovery Concerning Alleged Mootness, Dkt. No. 130; Plaintiff's Motion for Leave to Amend Complaint, Dkt. No. 130; the Magistrate Judge's Memorandum and Recommendation ("M&R"), Dkt. No. 131; Castro's Objections to the M&R, Dkt. No. 135; and Plaintiff's Response, Dkt. No. 136. The Court overrules Castro's objections to the M&R.

After independently reviewing the record and the applicable law, the Court **ADOPTS** the M&R, Dkt. No. 131, in substance.¹ The Court:


- **DENIES** Castro's dispositive motions, Dkt. Nos. 112, 116:

¹ The Court alters and adopts the following statements (with the corrections in bold type):

- "Plaintiff has suffered multiple seizures at the Bill Clements Unit as a result of **officers'** use of flashlights and constant illumination in his cell." Dkt. No. 131 at 7.
- "Plaintiff's allegations, therefore, suggest that current TDCJ **policies** related to the use of strobe-capable flashlights have led to violations of his Eight Amendment rights and caused him injury." *Id.* at 15.
- "Rather, on December 20, 2019, the Court adopted the undersigned's December 13, 2018 M&R **only** retaining Plaintiff's deliberate indifference claims only against Assistant Warden Furr and dismissing all other defendants, including former TDCJ Director Davis." *Id.* at 16.

- **GRANTS** Plaintiff's Motion to Reconsider Dismissal of the Director of the TDCJ, Dkt. No. 130 (**TDCJ Director Bobby Lumpkin is substituted in place of Castro in this action**);
- **DENIES** Plaintiff's Alternative Motion to Substitute Parties, Dkt. No. 130; and
- **DENIES AS MOOT** Plaintiff's Motion to Permit Discovery Concerning Alleged Mootness, Dkt. No. 130, and Motion for Leave to Amend Complaint, Dkt. No. 130.

SIGNED this 5th day of December 2021.

A handwritten signature in black ink, appearing to read 'Hilda Tagle', written over a horizontal line.

Hilda Tagle
Senior United States District Judge